

California Regional Water Quality Control Board
North Coast Region

MINUTES OF MEETING

December 2 and 3, 2003
Regional Board Meeting
River Lodge Conference Center
1800 Riverwalk Drive
Fortuna, CA

Chairman William Massey called the Regional Water Board meeting to order at 1:08 p.m. on December 2, 2003.

i. Pledge of Allegiance

John Corbett led the Pledge of Allegiance

ii. Roll Call and Introductions

Board Members present: Dina Moore, Richard Grundy, John Corbett, Bev Wasson, and William Massey

Absent: Gerald Cochran

Absent: Gary Carlton, State Water Board Liaison

Regional Water Board Staff attended: Catherine Kuhlman, Frank Reichmuth, Sheryl Schaffner, Ranjit Gill, Tom Dunbar, Dean Pratt, Lisa Barnard, Casey Ashley, Dave Hope, Tuck Vath, Terri Korell, Julie Sayre, and Jean Lockett

iii. Board Members Ex Parte Communication Disclosure

Dina Moore stated that she had a telephone conversation with Mark Rentz regarding SB 810.

iv. State Board Liaison's, Board Chair's, Board Members' and Executive officer's Reports:

There were no reports given.

iv. Public Forum:

Ellen Taylor, with The Lost Coast League, stated that any decisions made on the five watersheds affects the Mattole Watershed.

Mrs. Miller, with Global Harmony, urged the Regional Water Board to assist in helping to preserve the living forest.

Item 1. Approval of Minutes

Minutes for August 2003 board meeting were submitted for approval. Mr. Grundy suggested changes to the draft minutes.

MOTION: John Corbett moved to approve the minutes for the August 2003 Regional Water Board meeting subject to the suggested changes stated by Richard Grundy. Bev Wasson seconded the motion. Motion passed unanimously.

- Item 2. **Consideration of Resolution No. R1-2003-0128, to extend Agreement No. 7-904-110-0 with amendment #3. The Agreement is Between the State Water Resources Control Board on Behalf of the North Coast Regional Water Quality Control Board and the Sonoma County Water Agency. This contract will be extended to June 30, 2004. The contract is to develop water quality standards for the Russian River**

Dave Hope made the presentation.

MOTION: Bev Wasson moved to adopt Resolution No. R1-2003-0128. John Corbett seconded the motion. Motion passed unanimously.

- Item 3. **Consideration of Resolution No. R1-2003-0130, Delegation to Executive Officer the Authority to Implement Senate Bill 810**

This item was moved to the next day's board meeting December 3.

Paul Mason with the Sierra Club stated that he was uncertain of his availability for the December 3 board meeting, Mr. Mason was permitted to make comments today on the item. He expressed concerns on how SB 810 will be interpreted. He discussed the implementation of SB 810.

Richard Grundy asked Mr. Mason if he thought that the MOU should be revised or superseded. Mr. Mason stated that MOU needed to be updated to reflect the equal footing of the Regional Water Board with the Department of Forestry.

- Item 4. **Update on Investigation and Cleanup of Sites surrounding Humboldt Bay**

Tuck Vath, Lisa Barnard, Kasey Ashley and Dean Pratt shared in making the presentation.

Mr. Corbett asked if staff felt that sites would be lifted from the 303(d) list in the next five years. Ms. Kuhlman stated that she did not believe that the sites would be lifted from the 303(d) list.

Melvin McKinney addressed the Board on the investigation for two sites that were not listed in the presentations.

- Item 5. **Summary Report of Humboldt Bay Watershed Fecal Coliform Study (1999-2000)**

Jill Geist, Chairman of the Humboldt Bay Shellfish Technical Advisory Committee, present the presentation.

Item 6. **Update on the City of Crescent City Cease and Desist Order No. R1-2002-0005**

Tom Dunbar made the presentation.

Michael Young, Director of the Public Works for the City of Crescent City, updated the Board on the City's efforts to improve and expand the treatment plant.

Dave Wells, City Manager of the City of Crescent City, discussed the phases and the financial aspects of the City to complete the project.

R. Martell, elective City Council Member of the City of Crescent City, assured the Board that the Council Members were committed to the project.

Item 7. **Update on Various Options Available to the Regional Board to Regulate Discharges of Waste from Irrigated Agricultural Lands**

Dr. Ranjit Gill made the presentation

The Board endorsed Dr. Gill's presentation and directed staff to continue working on the irrigated agricultural waiver and make an effort to link the TMDL implementation program with some sort of agricultural waiver or waste discharge requirements.

Item 8. **Policy for admitting late comments on agenda items**

Staff recommended that the Board adopt the language presented for the two-page agenda. The additional language will address late comments on agenda items.

The Board approved the additional language.

Item 9. **Executive Officer Administrative Civil Liabilities**

Frank Reichmuth reported that a payment of \$26,000 was received from Sonoma County Water Agency in settlement of an ACL Complaint on Occidental.

Item 10. **Board Members Request for Future Agenda Items**

Mr. Corbett requested to have an answer to Mr. Bertain's Petition

Item 11. **Violation Report**

Stands as written.

Item 12. **Regional Water Board 2004 Draft Meeting Schedule**

The January 2004 board meeting was rescheduled to February 2004 to accommodate the Regional Water Board members. The Regional Water Board members approved the 2004 Board meeting schedule with the changes.

Item 13. **Monthly Report to the Board**

Stands as written

Item 14. **Other Items of Interest**

Stands as written

There being no other business the meeting adjourned for the evening at 5:25 p.m., continued to the next day, at the same location.

WEDNESDAY, DECEMBER 3, 2003

Chairman William Massey called the meeting to order at 8:40 a.m.

vi. Pledge of Allegiance

Diana Moore led the Pledge of Allegiance

vii. Roll call and introductions

Board Members present: Dina Moore, Richard Grundy, John Corbett, Bev Wasson, Gerald Cochran, and William Massey

Regional Water Board Staff attended: Catherine Kuhlman, Frank Reichmuth, Sheryl Schaffner, Ranjit Gill, Holly Lundborg, David Kuszmar, Dave Hope, Tuck Vath, Terri Korell, Julie Sayre, and Jean Lockett

Item 3. **Consideration of Resolution No. R1-2003-0130, Delegation to Executive Officer the Authority to Implement Senate Bill 810**

Catherine Kuhlman introduced the item.

Bernie Bush addressed the Board opposing Senate Bill 810

Paul Mason, Sierra Club Forest lobbyist and one of the sponsors of SB 810, addressed the Board supporting the Senate Bill 810 and the proposed delegation of authority.

MOTION: John Corbett moved to adopt Resolution R1-2003-0130. Richard Grundy seconded the motion. Motion passed unanimously.

CONSENT ITEMS

Item 15. **Stockton Pacific Enterprises, In., Louisiana Pacific Corporation Samoa Class Solid Waste Disposal Site**

MOTION: Bev Wasson moved to adopt the Consent Items. John Corbett seconded the motion. Motion passed unanimously.

- Item 16. **PUBLIC HEARING Order No. R1-2003-0045, NPDES No. CA0024449
City of Eureka, Greater Eureka Area, Elk River Wastewater
Treatment Facility, Humboldt County, NPDES Permit Renewal, WDID
No. 1B82151OHUM (Roy O'Connor)**

This item was removed from the agenda until a later date.

- Item 17. **Update and Direction to staff on work efforts in the five Humboldt
County Watershed**

Catherine Kuhlman introduced the item. Holly Lundborg and Frank Reichmuth presented a short background presentation.

John Corbett asked if the current in-stream monitoring programs that have been established are sufficient to gather the information required by the Panel Report. Ms. Lundborg stated that she thought that the in-stream monitoring that is being received is well beyond any of the other watersheds that is known to her. However, if the objectives are changed then a revised plan may be needed.

- A. Update on work efforts in five Humboldt County Watershed

Mark Neely made the presentation.

Dina Moore requested clarification on why South Fork was not explicitly included in the CAO R1-2002-0114 requesting technical Reports.

Frank Reichmuth responded by saying the original intent of the order was to try and address all of the erosion control sites. However, while the title of the order did include the South Fork, the text and substance of the order did not. The order should be amended to include the South Fork.

- A. Regional Water Board Direction to Staff on the Findings of the Independent Scientific Review Panel Phase I and Phase II reports on Sediment Impairment and Effects on Beneficial Uses for the Elk River and Stitz, Bear, Jordan and Freshwater Creeks.

Frank Reichmuth made the presentation on the five options recommended to the Board by staff.

Those who represented the Humboldt Watershed Council were Mark Lovelace, Jan Krapelien, and Cynthia Elkins

Agencies representatives were Bill Snyder for the Department of Forestry and Fire Protection; Trinda Bedrossian, for the California Geological Survey; and Mark Stopher, for the California Department of Fish and Game.

Comments were taken from:

Dan Dill, Biologist and a resident of Humboldt County
Diane Beck, representing the North Group, Redwood Chapter of Sierra Club
Michael Dunkelberger, representing Pacific Lumber Company
Jim Holdner, Elk River resident

Henry Long, representing Pacific Lumber Company
Attila Gyenis, Humboldt County resident
Janet Mattson, ranch owner in Humboldt County
Rod Sanderson, Pacific Lumber Company employee
Doug Madsen, forester in Humboldt County
Adrian Miller, forester for Pacific Lumber Company
Peter Burgess, Freshwater resident
Lane Russ, resident of Elk River
Tim Morin, forester with Pacific Lumber Company
David Spreen, resident of Kneeland
Dennis Schlotzhauer, Pacific Lumber Company Employee
Barry Dobosh, representing Pacific Lumber Company
Darryle Story, landowner in Freshwater
Burt Silva, employee of Pacific Lumber Company
Alan Cook, Freshwater resident
Mark Knipper, resident of Humboldt County
Harriet Hill, resident of Freshwater watershed
Joyce King, resident of Humboldt County
Ken Miller, resident of Humboldt County
Shirley Shelburn, resident of Humboldt County
Leslie Quinn, resident of Kneeland
Paul Trichilo, Friends of the Van Duzen Rivers
Jesse Noell, resident of Freshwater watershed
Robert Vogt, employee of Pacific Lumber Company
Earl Bootier, resident of Kneeland
Jim Cook, Pacific Lumber Company employee
Jeanette Jungers, resident of Humboldt County
Kristi Wrigley, Freshwater resident
Doug Smith, resident of Humboldt County
Dave Bischel, president of California Forestry Association

The Board observed a lunch while conducting closed session. 1:15 p.m. to 2:35 p.m.

Chairman Massey opened the meeting to the public. There were no reports from the closed session.

In answer to Item 17 B Question 1:

The Regional Water Board discussed the issue and asked questions of staff.

MOTION: Richard Grundy made the following motion: the Board finds that additional Regional Water Board regulatory and non-regulatory action, beyond the current program outlined in Item 17A, are necessary to address the water quality impacts due to rate and scale of land disturbing activities in the Five Watersheds. Bev Wasson seconded the motion.

Mr. Massey asked Mr. Grundy to explain the difference between his motion and the questions posed by staff. Mr. Grundy explained the insertion of the phrase "un-regulated" because the questions posed by staff were more restrictive and did not include non-

regulatory action. Mr. Grundy also inserted the phrase “water quality impacts due to” to make it clear that the Board was acting based on water quality related concerns.

MOTION: Motion passed unanimously.

In discussion of Item 17B, Mr. Corbett proposed a motion to have staff require submittal of reports of waste discharge, leading to WDRs, on a watershed, watershed segment or watershed unit (to be mapped at the Executive Officer’s discretion) in Elk River and Freshwater Creek, allowing adequate time for preparation of environmental documentation.

Mr. Corbett discussed the need to develop an approach that handles individual permit process (THP and WDR) within the context of the larger watershed to make them effective. He moved that a system be developed that deals with watershed segment or units (at the Executive Officer’s discretion) and a notice process that allows for development of environmental documents (staff determine time, he recommends between 6 to 9 months). Mr. Corbett stated that any WDRs issued should go beyond sedimentation associated with winter operations.

MOTION: John Corbett moved in Response to Item 17B Question 2, that staff shall require submit of reports of waste discharge, leading to WDRs on a watershed-unit or segment basis, with larger mitigation ratios as appropriate, in Elk and Freshwater. Sufficient notice shall be given to allow adequate time for preparation of environmental documentation. Gerald Cochran seconded the motion. Motion passed unanimously.

Board discussion ensued, indicating that staff should map the specific segments or units to be covered by the WDRs. A time frame of 6 – 12 months was discussed. Dina Moore also made it clear that in discussing the need for these additional regulatory activities in these watersheds, we are dealing with one particular discharger. The Board then proceeded to discuss the options and issues outlined regarding interim in-stream remediation, focusing on what could be done sooner, rather than later, versus the longer-term inquiry and effort to pursue a dredging option.

MOTION: Dina Moore moved that the Board finds that water quality benefits can be derived from short-term remediation actions. The Board therefore directs the Executive Officer to prepare a proposal for pursuing short-term in-stream remediation options, exclusive of dredging. The proposal will consider, among other appropriate measures, the removing of channel obstructions, placement of woody debris, and construction of sediment detention basins. Richard Grundy seconded the motion. The motion passed unanimously.

John Corbett added a “cautionary note” that the Board should be aware that the approach in the just-passed motion runs counter to some current thinking in stream

restoration, and staff should solicit input from other agencies and organizations in pursuing it.

MOTION: John Corbett moved that until watershed segment WDRs are in place, staff shall develop and require the implementation of mitigation measures as necessary to address cumulative impacts from individual timber harvest plans. In part, staff is instructed to pursue modification of Zero Net Discharge (ZND) to raise the mitigation ratio as appropriate, in the range of 300% to 500% to mitigate for problems identified in the Panel Report.

The motion was discussed and refined.

Richard Grundy stated that the Board finds that further actions are needed to address cumulative impacts in the Five Watersheds.

MOTION: John Corbett moved that until watershed wide, watershed segment or watershed unit, WDRs are in place staff is directed to develop and implement mitigation measures as necessary to address cumulative impacts in individual timber harvest plans. These measures can include but are not limited to, road mitigation requirements, sediment budgets requirements, mitigation ratios and year round requirements. Richard Grundy seconded.

The motion was further discussed, and tabled temporarily.

MOTION: Gerald Cochran moved that Cleanup and Abatement Order Rb1-2002-0114 be revised to clarify the inclusion of South Fork Elk River in the Order. Dina Moore seconded the motion. Motion passed unanimously.

MOTION: Richard Grundy moved that the Executive Officer be directed to jointly develop a time schedule with Pacific Lumber Company to address cleanup of sediment sites in the Bear, Stitz and Jordan Creek watersheds. The Executive Officer is further directed to issue a Clean up and Abatement or 13267(b) if the first dates in the cooperative schedule are not met. The Board further directs the Executive Officer to develop a Time Schedule Order if the dates in the order are not met. John Corbett seconded the motion. Motion passed unanimously.

MOTION: John Corbett moved that the Board finds that further actions are needed to deal with cumulative impacts. Until the watershed-wide (watershed-

segment and/or watershed-unit based) WDRs are in place, staff should develop additional mitigation measures as necessary to address cumulative impacts for individual THPs. These measures can include, but are not limited to, road mitigations, sediment budgets, increased mitigation ratios, and year-round requirements." (This was John Corbett's motion, as refined, read back for him, and affirmed. Richard Grundy seconded the motion. Motion passed unanimously.

After the vote, in response to staff request for clarification on the Board's intent, the Board clarified that these additional measures could be implemented via any available tool of the staff's choosing, including, but not limited to, the team-review process, SB 810 veto, denial of waiver coverage, or individual WDRs, or any other appropriate tool.

MOTION: Mr. Grundy moved that based on the testimony received, the Board finds that a new period of interagency cooperation should be initiated between the agencies to achieve common environmental goals and objectives and develop joint regulatory efforts to achieve Basin Plan objectives. Dina Moore seconded the motion. Motion passed unanimously.

Item 12. Regional Water Board 2004 Draft Meeting Schedule

The January 2004 Regional Board meeting was rescheduled to February 10 and 11, 2004.

There being no further business to come before this meeting body, the meeting adjourned at 3:45 p.m., until the next scheduled Board meeting on February 10 and 11, 2004

The Secretary, E. Jean Lockett recorded the minutes of the December 2 and 3, 2003 meeting of the North Coast Water Quality Control Board, to be approved by the Board at a subsequent Board meeting.

_____Chairman

_____Date